

Edward W. McBride, Jr. (8236)  
Ted McBride Law Office  
4873 South State Street  
Murray, Utah 84107  
Telephone: (801) 769-0599  
[Tedmcbride13@gmail.com](mailto:Tedmcbride13@gmail.com)

*Attorney for Plaintiffs*

---

IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

---

ALLEN ANDERSEN; NEXLEVEL  
NETWORK, LLC; JESSICA ZIMMERMAN;  
ROBERT GURNEY; AMY HODGSON; and  
JOHN DOES 1-99

Plaintiff,

v.

STATE OF UTAH; UTAH DEPARTMENT  
OF HEALTH AND HUMAN SERVICES; et  
al.

Defendants.

**PLAINTIFFS' RULE 42(a) MOTION  
TO CONSOLIDATE**

Case No. 1:16-cv-00005

Judge Clark Waddoups  
Magistrate Judge Dustin B. Pead

---

COME NOW Plaintiffs, by and through counsel, and pursuant to FED. R. CIV. P. 42(a) move to consolidate and merge cases. Plaintiffs submit that consolidation may be appropriate because the new cases involve challenges to similar municipal regulations, and concern the same questions of law already before this Court.

**STATEMENT OF FACTS**

1. This action was commenced on January 12, 2016.
2. Plaintiffs allege violations of the Fair Housing Act, and challenge both state and municipal authority to regulate sober living homes.

3. On October 2, 2018, George Harper filed suit against Linden City for FHA violations in connection with its refusal to grant reasonable accommodations to operate a residential rehabilitation facility. *George Harper v. Linden City*, 2:18-cv-00772. Linden City was served just recently and we are awaiting contact from defense counsel, which I have reason to believe will be Jody Burnett.

4. On October 16, 2018, Smart Sober Living, LLC filed suit against Sandy City for FHA violations in connection with its refusal to grant reasonable accommodations to operate sober living homes. *Smart Sober Living vs. Sandy City*, 2:18-cv-00806. We have prepared a summons and submitted to the clerk for issuance.

#### **ARGUMENT AND CITATION OF AUTHORITY**

There are now three cases pending in the Utah Federal District Court involving the interpretation and application of the Fair Housing Act vis-a-vis residential rehabilitation facilities and sober living homes.

Federal Rule of Civil Procedure 42(a) states in pertinent part that

- i. If actions before the court involve a common question of law or fact, the court may . . . consolidate the actions.

Rule 42(a)(2).

The above rule is one of convenience and exists to give the court discretion to decide how cases on its docket are to be handled so that the business of the court may be dispatched with expedition and economy while providing justice to the parties. *See Miller v. U.S. Postal Service*, 729 F2d 1033, 1036 (5th Cir 1984); *Miller Brewing Co. v. Meal Co.*, 177 F.R.D. 642, 643 (E.D. Wis. 1998). Factors to consider are:

Whether the specific risks of prejudice and possible confusion [are] overborne by the risk of inconsistent adjudications of common factual and legal issues, the burden on parties, witnesses and available judicial resources posed by multiple lawsuits, the length of time required to conclude multiple suits as

against a single one, and the relative expense to all concerned of the single-trial, multiple-trial alternatives.

*Hendrix v. Raybestos-Manhattan, Inc.*, 776 F.2d 1492, 1495 (11th Cir. 1985) (quoting *Arnold v. Eastern Air Lines, Inc.*, 681 F.2d 186, 193 (4th Cir. 1982), *cert. denied*, 460 U.S. 1102 (1983) and 464 U.S. 1040 (1984)).

The salient issue linking these three cases together is the interpretation of the Fair Housing Act, and the extent to which the state and local governments may regulate sober living homes and residential rehabilitation facilities. The principal justification for consolidation is to avoid the risk of conflicting legal opinions on the same or similar issues.

### CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request the Court to consider consolidating this case with *Harper v. Linden City*, 2:18-cv-00772 and *Smart Sober Living vs. Sand City*, 2:18-cv-00806, for the reasons stated herein, or any other reason the Court deems justification for such.

DATED: October 28, 2018.

TED MCBRIDE LAW OFFICES

/S/ Ted McBride  
Edward W. McBride, Jr.  
Attorney for Plaintiffs